



September 22, 1999

Mr. Sealy Hutchings  
General Counsel  
Office of Consumer Credit Commissioner  
2601 North Lamar Boulevard  
Austin, Texas 78705

OR99-2642

Dear Mr. Hutchings:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128009.

The Office of Consumer Credit Commissioner (the "OCCC") received a written request for "all notes, memos, document, receipts and written down conversations with Big D's Pawn and [the requestor]." You state that some responsive documents will be made available to the requestor. You seek to withhold other documents, a representative sample of which you have submitted to this office, pursuant to sections 552.101, 552.111, and 552.112 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You contend that some of the requested information is confidential pursuant to section 371.206 of the Finance Code because of the method by which the OCCC obtained the requested information. Section 371.206 provides that

[i]nformation obtained during an examination or inspection authorized by this subchapter [subchapter E of chapter 371 of the Finance Code] is confidential and privileged except for use by the commissioner or in a criminal investigation or prosecution.

Fin. Code § 371.206. Subchapter E of chapter 371 of the Finance Code authorizes examinations of pawnbrokers and inquiries into pawnbrokers' transactions and records by the consumer credit commissioner at his discretion. Fin. Code § 371.201. We agree that Exhibit B, an examination report of the pawn shop in question, and Exhibit H, an intra-office memorandum concerning the OCCC's investigation of a consumer complaint, constitute

information made confidential under section 371.206 of the Finance Code. The OCCC must withhold these two documents pursuant to section 552.101 of the Government Code.<sup>1</sup>

You next contend that the remaining documents at issue, Exhibits C, D, E, F, G, and I, are excepted from required public disclosure pursuant to section 552.111 of the Government Code. Section 552.111 of the Government Code protects from required public disclosure interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the policymaking process. Open Records Decision No. 615 at 5 (1993); *see also Austin v. City of San Antonio*, 630 S.W.2d 391 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.). Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615 at 5 (1993). After reviewing the documents at issue, we conclude that these memoranda consist of purely factual material, none of which is protected from public disclosure under section 552.111. Consequently, the OCCC must release Exhibits C, D, E, F, G, and I to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/RWP/nc

Ref.: ID# 128009

Encl. Submitted documents

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<sup>1</sup>Because we resolve this aspect of your request under section 552.101, we need not address the applicability of the other exceptions you raised for these documents. In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

cc: Mr. Michael Bader  
P.O. Box 42  
Cedar Park, Texas 78630  
(w/o enclosures)